

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

COURTHOUSE NEWS SERVICE,	:	CASE NO. 1:21-cv-00197
	:	
Plaintiff,	:	Judge Michael R. Barrett
	:	
vs.	:	
	:	
PAVAN PARIKH, in his official	:	<u>DEFENDANT'S UNOPPOSED</u>
capacity as Clerk of the Hamilton	:	<u>MOTION FOR LEAVE TO FILE</u>
County Court of Common Pleas	:	<u>ANSWER <i>INSTANTER</i></u>
	:	
Defendant.	:	

Now comes Defendant, Pavan Parikh, Hamilton County Clerk of Courts, as substituted for former clerk Aftab Pureval pursuant to a Notation Order entered 1/27/2022 (hereinafter Defendant), in all capacities sued, by and through counsel, and hereby respectfully moves this Court for leave to allow the filing of an Answer *instanter*, a copy of which is attached hereto as Exhibit 1. Counsel for Plaintiff were consulted and indicate there is no objection to this Motion. A Memorandum in support follows.

Respectfully submitted,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO

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Trial Attorneys for Defendant

MEMORANDUM

Plaintiff filed its Complaint on March 23, 2021 naming the then Hamilton County Clerk of Courts, Pureval, in his official capacity only. On May 20, 2021 Defendant filed a Motion to Dismiss. (RE 8). Plaintiff filed a response on June 9, 2021. (RE 10). Defendant filed a Reply on June 23, 2021. (RE 11). On July 20, 2021 Plaintiff filed a Motion to File a Sur-Reply. (RE 13). On August 9, 2021 Defendant filed a Response in Opposition to the Motion to File a Sur Reply. (RE 15). On January 26, 2022 Plaintiff filed a Motion to Substitute a party substituting former Clerk Pureval with the current Hamilton County Clerk, Pavan Parikh (RE 17), which motion was granted by this Court on January 27, 2022. On September 21, 2022 this Court denied Defendant's Motion to Dismiss. (RE 19). On October 20, 2022 Plaintiff filed an Application to Clerk for an Entry of Default Against Defendant Pavan Parikh.

Counsel for Defendant were noticed of this Court's denial of the Motion to Dismiss through Pacer. Due to the passage of time and counsel's more regular practice of proceeding with dismissal under 12(C) rather than 12(B) counsel inaccurately believed the case was moving forward to the Court's issuance of a scheduling order. Immediately upon becoming aware that in fact an Answer had not been filed and was due to the Court as a result of the filing of Plaintiff's Application for Default on October 20th, an Answer was prepared and opposing counsel consulted.

As the failure to timely file an answer resulted from misremembrance of Defendant's counsel as to the procedural posture of the case rather than a lack of good faith or any deleteriousness on the part of Defendant himself, Defendant requests that this Court permit him leave to file an answer in the above captioned case *instantly*.

Counsel apologize to the Court and opposing counsel for any inconvenience caused by this oversight.

Respectfully submitted,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, I filed a true and accurate copy of the foregoing with the CM/ECF system, which will serve all parties and counsel of record who have appeared and constitutes service by rule.

/s/ Michael J. Friedmann
Michael J. Friedmann, 0090999
Assistant Prosecuting Attorney